

# *St. Louis City Ordinance 62765*

FLOOR SUBSTITUTE

BOARD BILL NO. [92] 200

INTRODUCED BY ALDERMAN Joseph D. Roddy , Martie J. Aboussie , Stephen J. Conway

An ordinance pertaining to nuisances which are maintained by owners of real property or their tenants; providing for the procedures and requirements for the declaration of activity related to the sale, use, and possession of illegal substances as a public nuisance, providing for orders abating said nuisance and for the enforcement of said orders; and containing a penalty clause, and severability clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

## SECTION ONE.

A. The Board of Aldermen finds that there is an increasing use of real property within the City of St. Louis for the purpose of flagrant violations of the penal laws relating to dangerous drugs. The Board also finds that such use continues even after the interdiction by police authorities, with repeated offenses being committed at the same properties.

B. The Board of Aldermen finds that this situation seriously interferes with the interest of the general public in the areas of quality of neighborhood life and environment; diminution of property values; safety of the public upon the streets and sidewalks; and increasing costs of law enforcement as a result of these illegal activities.

C. The Board of Aldermen, therefore, finds it in the public interest to authorize and empower the appropriate city officials to impose sanctions and penalties for such public nuisances as an additional and appropriate method of law enforcement in response to the apparent proliferation of these public nuisances without prejudice to the use of any other procedures and remedies available under any other law.

## SECTION TWO

For purpose of this Ordinance, the following are declared to be public nuisances:

A. Any room, building, structure, inhabitable structure, or portion thereof which is used for the illegal use, possession, or selling, of controlled substances as enumerated in Sections 11.60.010 and 11.60.080 of the Revised Code of the City of St. Louis.

B. For purposes of this Ordinance, inhabitable structure is defined in accordance with the provisions of 569.010 RSMo.

C. For purposes of this Ordinance, illegal use, possession, or selling of controlled substances shall be defined as any use, possession, or selling of controlled substances which is unlawful under Federal or State of Missouri laws.

### SECTION THREE.

In addition to the enforcement procedures established elsewhere, the Director of the Department of Public Safety or his designee, after notice and hearing, as hereinafter required, shall be authorized to:

A. Order the discontinuance of such activity at the room, building, structure, inhabitable structure, or any portion thereof, where such public nuisance exists; and/or

B. Order the closing of said room, building, structure, inhabitable structure, or portion thereof, to the extent necessary to abate the nuisance, as prescribed hereafter.

### SECTION FOUR.

A. Whenever the Director of Operation Safestreet, or its successor agency, is notified that a search warrant has been issued and executed for any room, building, structure, inhabitable structure, or portion thereof in the City of St. Louis and that controlled substances, as defined in Section Two, have been confiscated as a result of said search warrant; or that an arrest has been made in any room, building, structure, inhabitable structure, or portion thereof, and that controlled substances, as defined in Section Two, have been confiscated as a result of said arrest, said Director shall cause a notice to be served on all owners of said room, building, structure, inhabitable structure, or portion thereof notifying them of a violation under Section Two of this ordinance. The notice shall advise the owners that the property will be declared a public nuisance if there are any additional violations of Section Two of this ordinance.

Said notice shall be given in accordance with Section Four subsection D of this Ordinance.

B. Upon notice to the Director of Operation Safestreet, or its successor agency, of a subsequent violation of Section Two of this ordinance within a period of three years of the initial Operation Safestreet notice, said Director shall notify the Health Commissioner of the City of St. Louis of said subsequent violation and all related activity occurring at the property. The Health Commissioner shall thereafter send a notice to all owners and mortgagors that a public nuisance may exist under Section Two of this Ordinance and that if said nuisance is not abated within 14 days of the date of the notice the Health Commissioner will direct the Director of the Department of Public Safety to take action pursuant to Section Three of this Ordinance. Said notice shall be in accordance with Section Four subsection D of this Ordinance.

C. If the notified parties fail to provide evidence of substantial abatement of the nuisance at the end of the fourteen (14) day period, the Health Commissioner shall direct the Director of the Department of Public Safety, or his designee to give notice of a hearing conducted under the provisions of Section Five of this Ordinance. All interested parties, including owners, lessees, mortgagors, tenants and neighbors of the property, may attend the hearing and present testimony. Notice of said hearing shall be given in accordance with Section Four paragraph D of this ordinance.

D. All notices required herein shall be served by means of certified mail, return receipt requested, sent to the last known address of the required party. If a signed, return receipt is not received within Fourteen (14) days of mailing, a copy of the notice shall be served in the manner provided for service of summons under Missouri Supreme Court Rule 54.13. In the event said notice is not served as prescribed above within thirty (30) days of the original attempt, posting said notice in a conspicuous place on said premises shall be sufficient.

E. In addition to the notice served pursuant to Subsection D of this section, all notices of hearings before the Director of Public Safety shall be posted on the premises involved in a conspicuous place.

F. The lack of knowledge of, acquiescence or participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all those persons in possession or having charge of as agent or otherwise, or having any interest in the property, real or personal, used in conducting or maintaining the public nuisance, shall not be a defense by such owners, lessors, and lessees, mortgagees and such other persons.

## SECTION FIVE.

A. Within ten (10) working days of the mailing of the notice and the posting of the notice, at a time and place as contained in said notice, the Director of the Department of Public Safety, or his designee, shall commence a hearing for the purpose of determining whether a public nuisance exists under Section Two. Each person designated in Section Four shall be given an opportunity to present evidence, under oath, and to be represented by counsel. The Director of Public Safety shall have the power, on his own motion, to subpoena witnesses and to take testimony, under oath, pertaining to all relevant matters. The Director of Public Safety may continue all or part of a hearing, if necessary, to conclude the investigation.

B. As part of his deliberations, the Director of Public Safety shall determine whether the violation of Section Two of this Ordinance is a significant, continuous, and unreasonable interference with rights common to all members of the community in general, such as public health, safety, peace, morals, or convenience. In determining whether a room, building, structure, inhabitable structure, or portion thereof should be closed as a result of a violation under Section Two, the Director of Public Safety shall consider, in addition to all other relevant factors, the impact of the closure on innocent parties.

C. At the conclusion of the hearing, the Director of Public Safety, or his designee, may issue an appropriate order under Section Three. Results of the hearing shall be mailed to the owner and the mortgagor, by means of certified mail, return receipt requested. Any person or organization present at the hearing may request a copy of the Director's order. A copy of said order shall also be posted at the premises within forty-eight (48) hours of the decision. Five (5) days after the posting of an order issued pursuant to this Article, not excluding Saturday and Sunday, officers of the St. Louis Police Department are authorized to act upon and enforce such orders.

## SECTION SIX.

A. Where the Director of Public Safety or his designee orders a closing of a room, building, structure, inhabitable structure, or portion thereof, as a result of a violation of Section Two of this Ordinance, such closing shall be for a period as the Director of Public Safety or his designee may direct, but in no event shall the closing be for a period longer than one (1) year from the date of the posting of the order. If the owner, lessor or lessee shall submit proof satisfactory to the Director of Public Safety that the nuisance has been abated for a period of 60

days then the Director of Public Safety may vacate the provisions of the order directing closure, or may modify said order.

B. A closing directed by the Director of Public Safety pursuant to this section shall not constitute an act of possession, ownership or control by the City of St. Louis of the closed premises.

C. The Director of Public Safety shall order all appropriate steps to be taken in the event of a closure, to completely secure the property from use during the period of closure and all City departments and agencies shall assist the Director. In the event that said steps are not taken, the Director of Public Safety shall take all appropriate steps to undertake and complete the work necessary to secure the property and shall charge the owners of the property benefitted thereby. In the event that the owners do not promptly reimburse the city for necessary steps taken, the Director of Public Safety shall report the charges to the Office of the Comptroller, which shall order an assessment against the property so benefitted, and/or authorize the City Counselor to commence immediate procedures through the appropriate court to recover costs incurred by the City of St. Louis for closure of the property as against the owner of said property.

#### SECTION SEVEN.

The Director of the Department of Public Safety may promulgate rules and regulations to carry out and give full effect to the provisions of this Ordinance, as needed, and it shall be a violation of this ordinance for any person to violate any rule or regulation promulgated hereunder.

#### SECTION EIGHT.

It shall be a violation of this Ordinance for any person to use or occupy or to permit any other person to use or occupy any room, building, structure, inhabitable structure, or portion thereof, ordered closed by the Director of Public Safety, or his designee, pursuant to Section Three. Mutilation or removal of a posted order of the Director of Public Safety or his designee shall also be a violation of this Ordinance. Any violation of this Ordinance shall be punishable by a fine of not more than \$500.00 or by imprisonment not exceeding 90 days or by both fine and imprisonment.

#### SECTION NINE.

The sections of this ordinance shall be severable. In the event any section of this ordinance is found by a Court of competent jurisdiction to be unconstitutional, the remaining sections of this ordinance are valid, unless the Court finds the valid sections of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void section that it cannot be presumed that the Aldermen would have enacted the valid sections without the void ones; or unless the Court finds that the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

<b>Legislative History</b>				
<b>1ST READING</b>	<b>REF TO COMM</b>	<b>COMMITTEE</b>	<b>COMM SUB</b>	<b>COMM AMEND</b>
<b>10/16/92</b>	<b>10/16/92</b>	<b>PS</b>	<b>10/27/92</b>	
<b>2ND READING</b>	<b>FLOOR AMEND</b>	<b>FLOOR SUB</b>	<b>PERFECTN</b>	<b>PASSAGE</b>
		<b>11/06/92</b>	<b>11/06/92</b>	<b>11/13/92</b>
<b>ORDINANCE</b>	<b>VETOED</b>		<b>VETO OVR</b>	
<b>62765</b>				